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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,994	11/04/2003	David H. Beck	D0932-00410	5613

8933 7590 09/09/2004

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EXAMINER
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VERBITSKY, GAIL KAPLAN

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/700,994	<b>Applicant(s)</b> BECK ET AL.	
	<b>Examiner</b> Gail Verbitsky	<b>Art Unit</b> 2859	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.  
     4a) Of the above claim(s) 15-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☒ Claim(s) 4 and 6-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/05/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-14 and 28, drawn to a system for measuring thermal expansion and a temperature indicator, classified in class 374, subclass 55.
  - II. Claims 15-27, drawn to siding installation method, classified in class 33.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are not related since the system of the Invention I does not require a siding installation method steps as required by Invention II, the method of the Invention II can be used with another system, not necessarily the system of the Invention I.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Mr. Gribok on August 26, 2004, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-14 and 28. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-27 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Objections***

5. Claims 2, 7 and 28 are objected to because of the following informalities:

Claim 2: Perhaps applicant should insert –indication—or –data—before “expansion” in line 5 in order to clearly describe the invention,

Claim 7: “the readout” in line 1 lacks antecedent basis,

Claim 28: perhaps applicant should insert –of the adjacent panel—after “adjacent surface” in line 8 in order to clearly describe the invention. Appropriate correction is required.

***Specification***

6. The specification is objected: applicant should delete a website address included in parenthesis in page 20, line 35 of the specification since no reference to websites is allowed in the specification. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Wachtler (U.S. 5052121).

Wachtler discloses in Fig. 1 a system and a component 100 subject to expansion/ contraction as a function of temperature. The component 100, inherently,

has a predetermined coefficient (characteristics) of thermal expansion (CTE) over a range of temperatures. The system comprises a temperature sensor 18 affixable/ integral with the component 100. The system also comprises a temperature corresponding expansion indicator (dimensional measuring assembly) 21 providing a signal indicative of the displacement of a movable shoe 15 and a shoe 19 (col. 9, lines 1-13). The system provides a visual indication of distance dependent on (current) temperature from a reference (fixed) point 13.

For claim 3: it is inherent, that the indication on the temperature sensor changes (moves) as a function of a temperature change and correspond to a current temperature at each moment. It is also inherent that the temperature indicated by the temperature sensor corresponds (referenced) to a distance measured by the system, the distance corresponding to thermal expansion and contraction being a function of temperature.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feger (U.S. 20020136262) in view of Wachtler.

Feger discloses in Fig. 3 a system comprising a component (plastic/ polymer sample) 40 subject to thermal expansion/ contraction (heating/ cooling) as a function of

temperature, the component material inherently has a thermal characteristic (coefficient of thermal expansion/ CTE) over a predetermined temperature range.

The system also has a temperature sensor responsible for sensing a current temperature of the sample 40 is measured. The length/ distance between clamps 31 and 32 is recorded [0016] by a displacement sensor (expansion indicator/ distance scale) relative to an initial sample length (L1) at an initial temperature (T1). It is inherent, that the distance provided is related to temperature and a current temperature is referenced to a distance (displacement/ expansion) indicated on the scale. The CTE, which is known to be a function of temperature change  $\Delta T$  versus the distance/ length change  $\Delta L$  from a reference point, is calculated by a computer [0017] and visualized, as shown in table 1.

Feger does not explicitly state that the temperature sensor is affixed (affixable/ integral) to the sample (component), as stated in claim 1 with the remaining limitations of claims 2 and 5.

Wachtler discloses a device in the field of applicant's endeavor wherein a temperature sensor is directly attached to a workpiece (sample/ component).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the temperature sensor discloses by Feger with the affixable temperature sensor, as taught by Wachter, because both of them are alternate types of temperature sensing devices which will perform the same function, of sensing the temperature of the component if one is replaced with the other.

11. Claims 1-2, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feger view of Cirasole (U.S.6324963).

Feger discloses in Fig. 3 a system comprising a component (plastic/ polymer sample) 40 subject to thermal expansion/ contraction (heating/ cooling) as a function of temperature, the component material inherently has a thermal characteristic (coefficient of thermal expansion/ CTE) over a predetermined temperature range.

The system also has a temperature sensor responsible for sensing a current temperature of the sample 40 is measured. The length/ distance between clamps 31 and 32 is recorded [0016] by a displacement sensor (expansion indicator/ distance scale) relative to an initial sample length (L1) at an initial temperature (T1). It is inherent, that the distance provided is related to temperature and a current temperature is referenced to a distance (displacement/ expansion) indicated on the scale. The CTE, which is known to be a function of temperature change  $\Delta T$  versus the distance/ length change  $\Delta L$  from a reference point, is calculated by a computer [0017] and visualized, as shown in table 1. Thus, expansion, and thus, the length/ distance, changes in accordance with the temperature change.

Feger does not teach the temperature sensor with a visual indication affixed as an integral to a component, as stated in claim 1, with the remaining limitations of claims 2 and 5.

Cirasole discloses a device wherein a temperature sensor (liquid crystal thermometer/ display) 18 is affixed to a surface of a component. The temperature

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sensor has numeric indicia readout. It is inherently, that the data on the display changes according to temperature.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the temperature sensor disclosed by Feger with the affixable temperature sensor, as taught by Cirasole, because both of them are alternate types of temperature sensing devices which will perform the same function, of sensing the temperature of the component if one is replaced with the other.

***Allowable Subject Matter***

12. Claims 4, 6-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claim 28 is objected.

***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

Any inquiry concerning this communication should be directed to the Examiner Verbitsky who can be reached at (571) 272-2253 Monday through Friday 8:00 to 4:00 ET.

GKV

Gail Verbitsky

Primary Patent Examiner, TC 2800



August 27, 2004